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February 21, 1997

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William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

Dear Mr. Caton:

Re: CC Docket No. 96-115, CPNI

Yesterday, Merrienne Hoffman, Manager, Regulatory, Competitive Safeguards and Privacy, Pacific Bell, Michael Yourshaw of Wiley Rein, & Fielding, Alan Westin, Professor of Public Law and Government, Columbia University, Jess Haro, Co-Chair, Hispanic Association on Corporate Responsibility, Byron Williams of the Allen Temple Social Justice Institute, and I met with: James L. Casserly, Senior Legal Advisor to Commissioner Ness, Thomas Boasberg, Legal Advisor to Chairman Hundt, Elizabeth Yockus, intern, Commissioner Quello's office, and William A. Kehoe III, to discuss issues summarized in Attachment A. In addition, we submitted the materials enclosed in Attachment B. We are submitting two copies of this notice, in accordance with Section 1.206(a)(1) of the Commission's rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions.

Sincerely yours,



Attachment

cc: T. Boasberg
J. Casserly
W. Kehoe III
E. Yockus

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Public Attitudes Toward Local Telephone Company Use of CPNI (Customer Proprietary Network Information)

CC Docket 96-115

February 20, 1996

Pacific Telesis Group

Public Attitudes Toward Local Telephone Company Use of CPNI

- Pacific Telesis Group sponsored a national opinion survey by Opinion Research Corporation and Prof. Alan F. Westin, Columbia University.
 - The public is concerned about maintaining personal privacy.
 - The public also wants their telephone company to communicate with them about new services.

The Public Overwhelmingly Wants Business Communications from Their Telephone Company

- 88% of the public says it is acceptable for their telephone company to “communicate with them from time to time about new products or special discounts they are offering to customers.”
- Providing an opt-out procedure raises acceptance of such business communications to 93%.

Consumers Trust Their Local Telephone Company with CPNI

- Local Telephone companies received a 78% High and Medium trust level regarding their use and protection of consumers' confidential information.
 - This is the same high group as hospitals, banks, and employers.
 - They were slightly ahead of long distance telephone companies.
 - This was much higher trust than was given to insurance companies and cable television companies.
- Less than 10% of the public say their local telephone company has ever released their personal telephone information improperly.

Most Consumers Want to Learn from Their Local Telephone Company about New Services

- 64% say they want to hear about services such as “voice mail, long distance calling plans, cellular telephone services, and expanded cable television or home interactive video services.”
 - Even higher percentages of Hispanics, African-Americans, women, and young adults.
- 64% also say it’s acceptable for the local telephone company to use its CPNI to target such offers.
 - With notice and opt-out, this acceptance level rises to 80%.
- 69% say it’s OK for a service representative to look up CPNI during an inbound call to offer new services.

There is a “Sensitive Information/Opt-in” Model, but Carrier Use of CPNI Does NOT Fit That Model

- Carrier use of CPNI does not raise the risks of embarrassment, humiliation, or stigma
- The relationship between carrier and customer does not critically depend on the confidentiality of CPNI
- CPNI is not used, and has little potential to be used, to make decisions affecting an individual's access to employment, insurance, licenses, or other entitlements or benefits.

Use of Personal Information Which is Not Highly Sensitive is Customarily Used and Disclosed Pursuant to an Opt-Out Procedure

- Prescreening provisions of the Fair Credit Reporting Act (as amended by the Consumer Credit Reporting Reform Act of 1996).
- Medical Directory Information under the Uniform Health Care Information Act.
- Driver's license information under the Driver's Privacy Protection Act.
- State statutes in areas of telecommunications, financial services, direct marketing, health and medical records.

There is High Public Support for Companies Sharing Customer Information With Their Affiliates for Related Marketing

- Almost two out of three consumers support “subsidiaries” getting customer information “to make offers of services or products” (1994 Harris survey).
- This is widely adopted by legislation and regulation in areas such as credit reporting and medical records.

Consumers Have Important Concerns that Must be Considered

- Consumers approve of companies with whom they have an established relationship using information the company has about them to market additional services to them.
- Some demographic groups have an especially high interest in receiving information about new services from their local telephone company in this way.
- Without understanding this key point, the Commission may create CPNI rules that prevent local phone companies and other carriers from using their customers' CPNI for these purposes.
- The FCC needs to understand why the demographic groups in the survey, and other groups of customers, have such a high interest in receiving information about new services in this manner -- so they will understand the important public policy impacts of the rules they will create.

The Wrong Approach Can Harm Consumers

- If forced to use means other than customer's CPNI for marketing purposes -- both sales offers and new product development activities -- companies will need to purchase lists from outside sources.
- External lists come from a variety of sources, such as subscribers to particular publications, customers of credit card companies, members of organizations, etc.
- Other lists are made up of public records and other information that is more generic, but most often these are sorted by ZIP code to target customers possessing desired characteristics, such as high income.
- The problem for customers not already on these kinds of lists is twofold: they do not receive offers for new services, and they do not have a way to get on the lists.

Congress Said Customers Should Decide

- Competitors claim that, since external lists are what the competitors of local telephone companies must use, FCC rules that would require local telephone companies to use the same sources are competitively “fair.”
- In fact, many competitors for local service are businesses that provide non-telecommunications products and services to their customers, and they can use information about those existing customers freely. For example, cable TV firms are free to use CPNI about their cable customers to market telecommunications products and services to them.
- The FCC’s CPNI rules regarding a carrier’s internal use of CPNI must address the wants and needs of customers, not competitors.
- The law requires that customers be given the right to control such use of their CPNI by their local telephone carrier. The FCC should not create rules that take away that right.

Conclusion

- Rules implementing Section 222 will have significant public policy impacts, and will affect how large numbers of customers have access to information about new services and to the benefits of competition in telecommunications.
- To address the needs of the public in its rules implementing Section 222(c)(1), the FCC should allow telecommunications carriers to seek customer approval, via a notice and opt-out procedure, to use CPNI to market services in other categories to them.
- The customers of BOCs are entitled to the same CPNI treatment under 222(c)(1) as the customers of all other telecommunications carriers.
- Rules that limit customer access to information about new services or that subjugate BOC customer privacy for the sake of competition are not appropriate outcomes of this proceeding.

**PUBLIC ATTITUDES TOWARD
LOCAL TELEPHONE COMPANY
USE OF CPNI**

**REPORT OF A
NATIONAL OPINION SURVEY
CONDUCTED NOVEMBER 14-17, 1996**

**BY
OPINION RESEARCH CORPORATION,
PRINCETON, N.J.**

AND

**PROF. ALAN F. WESTIN,
COLUMBIA UNIVERSITY**

**SPONSORED BY
PACIFIC TELESIS GROUP**

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Executive Summary

A representative national survey on issues relating to local telephone company use of CPNI information was conducted in November of 1996 by Opinion Research Corporation of Princeton, New Jersey and Dr. Alan F. Westin, Professor of Public Law and Government, Columbia University, sponsored by Pacific Telesis Group.

The major findings of the survey relevant to the FCC's CC Docket No. 96-115 Rule Making are:

- Public concerns over threats to privacy and the desire for better control over the uses made by companies of customer information are very high, and still rising.
- At the same time, large majorities of the public believe it is acceptable for businesses to communicate to their own customers to offer them additional services and benefits, and especially if an opt out procedure is provided.
- This is specifically true of local telephone companies communicating with their customers through use of CPNI data.
- The public has strong confidence in local telephone companies to use the personal information they collect about customers in a responsible way, and to protect its confidentiality.
- Less than 10% of the public believe their local telephone company has ever released their information in an improper way.
- The availability of an opt out procedure brings initial approvals of local telephone company use of CPNI data from the two out of three respondent level up to the 80% range of public approval.

Introduction

Pacific Telesis Group commissioned Opinion Research Corporation of Princeton, New Jersey (ORC) and Dr. Alan F. Westin, Professor of Public Law & Government at Columbia University, to develop, conduct, and report the results of a national survey of public opinion about the use of customer proprietary network information (CPNI) by telecommunications carriers. We will refer to this as the "CPNI Survey."

Pacific Telesis believes the CPNI Survey's findings represent a fresh and highly valuable contribution to the Federal Communications Commission's CC Docket No. 96-115 Rule Making.

Dr. Westin is widely considered the nation's leading expert on information privacy, and is publisher of *Privacy & American Business*, the well-known national report on business-privacy issues. He has been the academic advisor to 22 national surveys on privacy since 1978, 15 of these with Louis Harris and Associates and 7 with Opinion Research Corporation. (A Privacy Vita for Dr. Westin is included as Appendix A).

Opinion Research Corporation has been, for over 50 years, a leading U.S. and international survey research firm, with a long roster of business, government, and non-profit clients. (A description of ORC appears in Appendix B) ORC conducts a weekly omnibus telephone survey ("CARAVAN") of a national probability sample of 1,000 adults 18 years of age and older, living in private households in the United States. (A description of the weekly CARAVAN survey is included as Appendix C)

The questions relating to CPNI were placed on the weekly ORC CARAVAN survey for November 14-17, 1996. (A full description of the methodology used and demographic make-up of the sample of 1,011 adults responding to our questions will be found in Appendix D) A copy of the entire CARAVAN question set relating to CPNI, with the tabulations obtained, has been attached as Appendix E.

This report to the FCC has been written by Dr. Westin. It was reviewed for accuracy and completeness of data presentation by Opinion Research Corporation and approved by ORC for public release.

1. Public Concerns About Threats to Privacy Are Very High and Still Rising

The CPNI survey asked four questions about privacy attitudes, to probe levels of concern and define the environment within which the FCC's CPNI Rule Making is unfolding. (We put these four questions at the end of the survey, to avoid any influence on the specific CPNI issues that might be exerted by presenting respondents at the outset with privacy-oriented questions.)

Our basic, long-term trend question (developed by Dr. Westin and used in national privacy surveys since 1978) asks respondents: "How concerned are you about threats to your personal privacy in America today." The choices given are: "very concerned, somewhat concerned, not very concerned, or not concerned at all."

When first asked in 1978, in the aftermath of Watergate, the response was 68% concerned -- 33% "very concerned" and 31% "somewhat concerned". When asked in mid-1995, after issues of consumer, employee, and citizen privacy in the increasingly computerized government and business environment had been widely discussed in the mass media in the 1990's, 82% of the public said they were concerned -- 47% saying "very concerned" and 35% "somewhat concerned."¹

In the CPNI Survey, far from receding, concern about privacy continued to climb. Eighty-nine per cent of the public in November of 1996 -- almost nine out of ten Americans -- now say they are concerned about privacy threats. And, 55.5% now say they are "very concerned" with 33.1% "somewhat concerned."

An 8.5% rise in "very concerned" sentiment within one year indicates clearly that public apprehension about privacy threats has not "crested"; rather, it is still rising significantly in the late 1990's.

2. Public Concern is Also Very High Over Uses of Consumer Information by Businesses

A set of three additional privacy-trend questions on the CPNI survey asked respondents whether they agreed or disagreed with a number of statements about privacy. The answers to these questions were not only useful in themselves, compared to replies on these questions recorded in earlier years, but also to create a High, Medium, and Low concern About Privacy Index. This was used to see how respondents with certain attitudes -- such as interest in hearing about new telephone services or having exercised an opt out -- divided along lines of intensity of privacy concern.

¹ Figures for this question between 1978 and 1995 appear in *The Equifax-Harris Mid-Decade Consumer Privacy Survey, 1995*, conducted by Louis Harris & Associates and Dr. Alan F. Westin.

(As we will see, majorities of respondents scoring either High and Medium in their concern about uses of consumer information accept an opt out procedure for the local telephone company communicating to them about additional services.)

The questions that made up our index were as follows:

- 83% of the public agrees that *"consumers have lost all control over how personal information about them is circulated and used by companies."*

This is up from 80% agreeing to that statement in 1995.²

- 72% of the public agree that *"If privacy is to be preserved, the use of computers must be sharply restricted in the future."* This is up from 67% stating such agreement when the question was last asked, in 1994.³
- 52% of the public disagree that *"Your rights to privacy as a consumer are adequately protected today by law or business practice."* [No exactly worded previous question is available for trend-line use.]

These concerned responses of the American public about business uses of consumer information, the uses of advanced information technologies to process consumer and citizen data, and weaknesses in existing law and business practices all justify the FCC's current attention to assuring that telephone service providers meet the public's legitimate expectations of privacy in the use of their customer information for marketing purposes.

The balance of the CPNI Survey was devoted to exploring just what those public expectations are, and what policies the public would like to see used in the handling of customer information.

3. At the Same Time, Very Large Public Majorities Favor Businesses Being Able to Inform Their Customers About New Services

As many previous consumer privacy surveys have documented, the public's concern about how consumer personal information is used by businesses does NOT mean that the American public wants to stop receiving communications about products and services from the businesses they are already patronizing.

To test this outlook in late 1996, the CPNI survey asked respondents the following:

When you are a customer of a business -- such as a bank, a department store, an insurance company, or a local telephone service -- do you consider it acceptable for this business to communicate with you from time

² Ibid.

³ The Equifax-Harris consumer Privacy Survey, 1994.

to time about new products or services, or special discounts they are offering to their customers they think may be of interest or benefit to you?

Almost nine out of ten members of the public -- 88% -- said receiving such informational communications from businesses they patronize would be acceptable to them.

Such communications were approved even more strongly than the public at large by the following groups:

18-24 year olds.....	93%
25-34 year olds.....	92
African-Americans.....	93
Hispanics.....	91
Persons who order many additional telephone services.....	94
People who are aware of and have used an opt out from any business.....	92

4. Offering an Opt Out Procedure Raises Public Acceptance of Such Business Communications to Customers to 93%

Twelve per cent of respondents (117) had said such business communications were either not very acceptable to them or not acceptable at all. These respondents were then asked a further question:

Would it become acceptable to you if this company offered you the opportunity to "opt out" or decline to receive information about new products or services or special discounts, and contacted only those customers who did NOT "opt out"?

Forty-two percent of these 117 respondents said yes. When these 49 persons are added to the 88% that found business communications to existing customers acceptable, a total of 93% of the American public finds such marketing acceptable.

5. Local Telephone Companies Are Among the Business Organizations Most Trusted by the Public to Use Customer Information Responsibly and Protect Its Confidentiality

Past consumer privacy surveys have documented that public confidence in the voluntary privacy and fair information practices policies of business organizations is highly correlated with the overall level of trust that the public has in how a particular industry handles the personal consumer information it collect and uses. When trust in an industry is very low, based on public perceptions (and dominant media treatment) of an industry's

failure to treat consumer information in ways the public considers responsible, the public will favor legal duties and regulatory enforcement, rather than the public's usual preference for voluntary policies and market-based dynamics.

With this well-documented trend in mind, the CPNI Survey asked respondents to indicate their level of trust in twelve types of industries, with the following question:

I will read you a short list of organizations which collect and use information about consumers. On a scale of 1 to 10, HOW MUCH DO YOU TRUST THEM to collect and use information about people like you in a responsible way and protecting its confidentiality. Answering "1" means you do not trust them at all and "10" means you have complete trust in them.

Our analysis combined answers of 10, 9, and 8 into a "High Trust" rating; 7, 6, 5, and 4 into a "Medium Trust" rating; and 3, 2, and 1 into a "Low Trust" rating. Following the procedure used in past consumer privacy surveys, we ranked the 12 industries in terms of a combined High and Medium Trust rating, producing the following pattern:

Public trust that organizations collecting information about consumers use such information in a "responsible way" and "protecting its confidentiality"

Type of Organization

High and Medium Trust

Hospitals..... 79%

Banks..... 78

Employers..... 78

Local telephone companies..... 76

Long distance telephone companies..... 72

Health insurance companies..... 66

Cable television companies..... 66

Credit card companies..... 64

Life insurance companies..... 64

Credit bureaus..... 48

Private investigators..... 43

Companies that sell to consumers at their
homes, by direct mail..... 40

The twelve industries fall into three clearly-differentiated segments, in public estimation. The five types of organizations receiving more than seven out of ten Americans' medium to high trust -- hospitals, banks, employers, local telephone companies, and long distance telephone companies -- represent industries whose promises of proper handling of consumer information enjoy very broad public confidence.

The four industries in the middle segment -- health insurance companies, cable television firms, credit card companies, and life insurance companies -- enjoy a two-out-of-three Americans' trust rating, a quite creditable standing in an era marked by general distrust of government and many sectors of business and non-profit organizational life.

Finally, direct marketers, credit bureaus, and private marketers were given a medium to high trust rating by less than a majority of the public.

For the purposes of the FCC's CPNI Inquiry, the finding that 77% of the American public have medium to high trust in local telephone companies gives strong support to the idea that a voluntary program of notice and opt outs in local telephone company use of customer information for offering additional telephone services would be regarded with confidence and approval by more than three out of four Americans.

6. Less than 10% of the Public Say Their Local Telephone company Has Ever Released Their Personal Telephone Information Improperly

Another indication of the level of confidence that the public presently has in local telephone companies was explored by the CPNI survey with the following question:

Have you ever had the company you use for local telephone service release the personal information they had about you in a way you thought was not proper?

Only 9% of the public said that this had ever happened to them. Eighty-two per cent said it had never happened, and 9% didn't know or didn't answer. By contrast, 25% of the American public said in 1993 that they believed an organization that had their medical information -- such as a doctor, hospital, clinic, or health insurance company -- had released their medical information in a way the respondent thought was improper.⁴

7. Large Majorities Say They Would be Interested in Learning From Their Local Telephone Company About New Telephone Services

Turning specifically to telephone services, the CPNI Survey posed this question:

Many new consumer services are being developed by local telephone companies today. These include voice mail, long distance calling plans, cellular telephone service, expanded cable television or home interactive

⁴ The Harris-Equifax Health Information Privacy Survey, 1993.

video services. How interested would you be in having your local telephone company inform you about such new services from time to time?

Almost two-thirds of the public -- 64% -- said they would be interested in being so informed of new services by their local telephone company.

8. Large Majorities Also Say it is Acceptable for Their Local Telephone Company to Look Up Their Records and Offer Them Additional Services, and Offering an Opt Out Increases This Majority to 82%

Turning to how the local telephone company selects customers to receive offers of additional services and benefits, the CPNI Survey asked this question:

Your local telephone company may also look at its customer records to see which of its current customers it thinks would be most interested in or benefit from hearing about new services. Do you consider it acceptable for your local telephone company to look over customer records for this purpose?

Again, almost two out of three members of the public -- 64% -- say this procedure would be acceptable to them. When the 36% who said it was NOT acceptable were asked whether providing an opt out procedure would make this record-based communication process acceptable, 45% said it would.

Combining those initially favorable with those becoming favorable if an opt out is provided produces a majority of 80% for this customer-record-based local telephone company communication process.

9. Similar Majorities Accept Checking Customer Records and Offering New Services During Service Calls

Looking at another common use of customer account records by local telephone companies, the CPNI Survey asked:

When you call your local telephone company to discuss your services, the customer service representative that you speak with normally looks up your billing and account service record. As a result of talking with you and seeing the services you already have, the representative may also want to offer you new services. On that call, do you consider it acceptable for the representative to offer you new services?

More than two-thirds of the public -- 69% -- say that such customer-account-based communication to them from a customer service representative would be acceptable.

(Since local telephone companies say their customer service representatives ask the person they are talking with whether it is all right to tell them about new services, an oral "opt out" is built into this process.)

10. Positive Views Toward Local Telephone Company Use of Customer Information Are Held by Majorities of All Demographic Groups

The questions we have reported were not close calls of the 51-49% variety; rather, as noted, they drew approving majorities in the 64-88% ranges. It is not surprising therefore, but important to note, that majorities in favor of local telephone company use of customer information for the marketing procedures presented were registered for all the demographic sub-groups that make up the general public -- young, middle-aged, and older persons; lowest to highest incomes; black, white, and Hispanic; male and female; lowest to highest education; conservative, moderate, and liberal political philosophy; urban, suburban, and rural community dwellers; and by Northeast, North Central, South, and West regions.

In terms of the FCC's mission to protect and promote "the public interest," this overall pattern of general-public and demographic-group majorities represents an important input to the FCC's CPNI Proceeding.

At the same time, it is important to note that many groups that the FCC is often especially concerned to protect, and to see well served in telephone services, were even more positive toward customer-information-based service offering than the public as a whole. For example, we saw in Section 5 that 64% of the overall public say they would be interested in having the local telephone company inform them about new telephone services.

However, among the groups that scored well above the public's 64% in their interest in receiving such information were:

Hispanics.....	79%
African-Americans.....	72
Women.....	69
18-24 year olds.....	76
Persons who have used an opt out.....	72
Persons who order many additional telephone services.....	83

It seems particularly useful to note that higher interest in receiving local telephone company communications on new services was registered by almost three out of four persons (72%) who have exercised an opt out from third-party marketing use of their name and address.

Analysis of the people who have used opt outs indicates that they are at the highest levels of privacy concern (as reflected in the privacy questions on the CPNI Survey, #14 and 15 A, B, and C) The CPNI survey found the respondents who have used opt outs in

other business setting are willing to change their position from initial disapproval to positive views of customer-records-based communications by local telephone companies when our follow-up questions asked whether providing an opt out would make such practices acceptable.

11. The Public Divides About Equally Between Offering an Opt Out in the Monthly Bill and Sending a Separate Mailing

To explore how the public would like local telephone companies to notify them about opt out choices and procedures, the CPNI Survey asked:

If your local telephone company provides you with an opportunity to "opt out" or decline to have your customer information used in this way, would you prefer receiving such a notice and "opt out" opportunity in your monthly telephone bill or in a separate mailing to you?

The public was almost evenly divided on this matter -- 51% preferred a separate mailing; 46% chose the monthly bill; and 4% gave no opinion.

Summing Up

In terms of the FCC's CPNI Rule Making, the November, 1996 ORC survey data show that:

- Large majorities of the American public believe it is all right for their local telephone company to communicate with them to offer additional services, whether by looking up their records to identify those likely to be interested in or benefit from such services or during calls from customers being handled by customer service representatives.
- When respondents who do not initially find such customer-record-based communications acceptable are told that an opt out procedure would be available, almost half of these say that this would make the communication to them acceptable.
- Adding those for whom the opt out makes the communication acceptable to those who originally approved of the communication provides favorable majorities at the 80% level.
- This very high approval for CPNI use by local telephone companies parallels the survey's findings as to initial approval and then opt out procedures for businesses in general communicating with their customers to offer additional services.